

श्रसाधारण EXTRAORDINARY

भाग II—सुण्ड 2 PART II—Section 2

प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY



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इस भा ! में भिग पृष्ठ संख्या दी जाती है जिससे कि यह बलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 30th April, 1992:—

I

BILL No. XIII of 1992

A Bill further to amend the Indian Penal Code, 1860.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Penal Code (Amendment) Act, 1992.

Short title and commencement,

- (2) It shall come into force at once.
- 2. In section 497 of the Indian Penal Code, 1860 for the words "wife shall not be punishable" the words "wife shall also be punishable" shall be substituted.

Amendment of section 497 of Act 45 of 1860,

The wife who of her free will and accord has sexual intercourse with a man who she knows is not her husband, violates the sanctity of marriage tie as much as the man who has sexual intercourse with the wife of another man with her consent. Therefore, she should also be punished as an abettor. Moreover the conscience of the Indian Society does not condone breach of marital fidelity whether committed by man or woman.

Hence this Bill.

SHABBIR AHMAD SALARIA

11

BILL NO. XVII of 1992

A Bill to provide for the removal of certain doubts regarding the interpretation of the Muslim Personal law on divorce and succession.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Muslim Personal Law (Removal of Doubts) Act, 1992.
 - (2) It extends to the whole of India.
- (3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.
- 2. (1) Notwithstanding any judgement, decree or interpretation by any court in India to the contrary, no divorce pronounced by a muslim husband shall be valid unless it is pronounced strictly in accordance with the provisions of the Holy Quran.
- (2) No divorce which has been procured either by force, coercion or under intoxication by a Muslim shall be valid under the Muslim Personal Law.
- 3. The children of a predeceased son or daughter shall be entitled to inherit the share their father or mother would have inherited in case he or she was alive when the succession opened.

Short title, extent and commence-ment,

Divorce not to be valid unless given in accordance with Holy Quran.

Validity of succession in certain cases.

The Muslim Umma want that Muslim Personal Law which is based on the Holy Quran and traditions of the Holy Prophet-peace be on himshould be strictly followed. In practice, however divorces are in vogue which do not comply with the mode and manner in which divorce to be valid should be pronounced according to the Holy Quran. The Bill seeks to remove this anomaly which is a cause of injustice and hardships to Muslim women.

Again if a son dies during the life time of his father leaving children. such children are not allowed to inherit their grand-father property merely because their father had died during the life time of their grand-father. The Holy Quran does not warrant such interpretation which is causing hardships to children of the deceased father in such cases.

The Bill seeks to remove this injustice also.

Hence this Bill.

SHABBIR AHMAD SALARIA

III

BILL No. XVIII of 1992

A Bill further to amend the Code of Criminal Procedure, 1973,

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Code of criminal Procedure (Amendment) Act, 1992.
- (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. After section 163 of the Code of Criminal Procedure, 1973 the following section shall be inserted, namely:—

- "163A. (1) Notwithstanding anything in sections 160 to 162 (both inclusive) any police officer making an investigation under this Code in respect of any offence punishable with death or imprisonment for life, shall during such investigation record the statement of all the eye witnesses to the commission of the crime in the presence of a Judicial Magistrate irrespective of his jurisdiction in the case.
- (2) The accused and his counsel, if any, shall be entitled to cross examine the witnesses.
- (3) The statement recorded under sub-section (1) and authenticated by the concerned Judicial Magistrate shall be admissible in evidence and used as evidence in the trial of the accused and it shall be deemed to be an evidence under the Indian Evidence Act, 1872.

Short title and commencement.

Insertion of new section 163A.

Special procedure for recording statement of witnesses for offences, punishable with death or life imprisonment.

2 of 1974.

In the case of heinous offences many offenders have to be acquitted by courts because many times the eye witnesses are won over, suborned or threatened by the criminals and their associates. The number of such cases is increasing alarmingly. There is also a tendency to keep the witnesses out of the way and to protract the trial proceedings. If the statement of eye witnesses are recorded immediately after the occurrence of the offence in the presence of a Judicial Magistrate the memory of such witness is fresh and criminals have no opportunity to threaten or suborn the witnesses and the accused and his counsel are given opportunity to cross examine the witnesses, then such statement, if authenticated by the Judicial Magistrate, should be made admissible in evidence during the trial of the accused. If this course is adopted the offenders would not be able to thwart the course of justice.

Hence this Bill.

SHABBIR AHMAD SALARIA.

Ι.

BILL No. XXV of 1992

A Bill to provide voting rights to Indian citizens living abroad in the elections to the Lok Sabha and the Legislative Assemblies of the States and for matters connected therewith.

Be it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

- 1. (1) This Act may be called the Non Resident Indians (Voting Right at Elections) Act, 1992.
- Short title extend and commence-ment.

Right to

vote to

Indian citizens

living

abroad

- (2) It extends to the whole of India.
- (3) It shall come into force at once.

the country.

- 2. (r) Notwithstanding anything contained in any other law for the time being in force, every Indian citizen living abroad who has retained his Indian citizenship, shall have the right to exercise his franchise in elections to the Lok Sabha and the Legislative Assemblies of the States in the country.
- (2) The name of every such non resident Indian citizen shall be registered in the electoral rolls of the constituency in which he was residing prior to his leaving

(3) It shall be the duty of the Election Commission of India to provide for an adequate machinery, as it may deem necessary, to enable such Indian citizens living abroad to exercise their franchise at every election to the Lok Sabha and Legislative Assemblies of States in the country.

Diplomatic offices abroad to assist Election Commission.

3. Notwithstanding anything contained in any other law for the time being in force, all the diplomatic and Consular Offices of the Government abroad shall assist the Election Commission of India in the discharge of its responsibilities provided under section 2 in such manner as may be prescribed by rules made under this Act.

Power to make rules.

- 4. (1) The Central Government may, by notification in the Official Gazette, make rules for giving effect to the provisions of this Act.
- (2) In particular and without prejudice to the generality of the fore-going power, such rules may provide for,-
 - (a) the manner in which electoral rolls of non resident Indian Citizens shall be prepared;
 - (b) the location of polling booths and appointment of polling officers abroad;
 - (c) the delivery of ballot papers to the electoral offices and to the polling officers;
 - (d) transmission of used ballot papers;
 - (e) the counting of votes cast;
 - (f) manner of declaration of results and transmission of the same to the Election Commission; Fand
 - (g) any other incidental and related matter which may be prescribed.

Over a period of time a large number of Indian citizens have gone abroad for working or pursuing their studies or doing business and are living there without terminating their Indian citizenship. By working or doing business abroad such Indian citizens are contributing enormously to the economic development of this country. Their foreign exchange remittances and deposits in Indian Banks are important sources in the building up of our foreign exchange reserves which help immensely in maintaining our balance of payment position. Thus the participation of such non resident Indian Citizens in the process of economic development is well recognized. Similarly, such Indian citizens do continue to take keen interest in the affairs of their country but are not able to exercise their voting right in the absence of a proper machinery to enable them to register themselves as voters or to vote in the elections. As such they are not allowed to participate in the political process of their own country despite the fact that they contribute a lot in the field of its economy. In the present context of foreign exchange scarcity the Government is trying its level best to attract more and more non resident Indians to invest in their own country. It will boost their morale if they are also given the right to partcipate in the political process of their country. For the participation of non resident Indian citizens in the elections, our diplomatic missions can play a vital role by providing all the required help to such non resident Indians. This will help them to participate in the affairs of their country and satisfaction of being practically attached to it despite living abroad.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 2 provides for the right to vote for non resident Indians and their enrolment as a voter. The Bill, if enacted, will incur expenditure from the Consolidated Fund of India. A recurring expenditure to the tune of Rupees five crores per annum is likely to be incurred. No non recurring expenditure is likely to be incurred in this regard.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 gives power to the Central Government to make rules for carrying out the purposes of the Bill which will relate to matters of details only. The delegation of Legislative power is of normal character.

V

BILL No. XXII or 1992

A Bill to provide for the maintenance and rehabilitation of persons suffering from infirmity due to age, ailment, physical deformity or mental imbalance and who are destitutes and for matters connected therewith or incidental thereto.

Beit enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Infirm and Destitute Persons (Maintenance and Rehabilitation) Act, 1992.

Short title, extent and commence-ment.

- (2) It extends to the whole of India.
- (3) It shall come into force at once.
- 2. In this Act unless the context otherwise requires,—

Definitions.

- (a) "appropriate Government" means in the case of a State, the State Government and in all other cases the Central Government;
- (b) "dostitute" means a person who lives uncared for without resources and remains in great need of food and shelter and maintains himself on begging or charity of others and lives—generally on footpaths or at any other public place not meant for residence;

- (c) "family" includes parents, spouse, children, unmarried daughters, dependent brothers and unmarried sisters of a person;
- (d) "infirm" means any person stricken with infirmity owing to age or physical deformity or ailment or mental imbalance;
- (e) "poor" means a person whose daily earnings on an average do not exceed,—
 - (1) if living alone, ten rupees;
 - (ii) if living with wife who is not earning fifteen rupees;
 - (iii) if living with family, per head income of the family members is less than four rupees;
 - (f) "prescribed" means prescribed by rules made under this Act.

Establishment of a Department for the Welfare of Infirm destitutes and poor.

3. The appropriate Government shall, as soon as may be, establish a separate Department to look after the infirm, destitutes and the noorand it shall be the responsibility of that Department to prepare plans for their rehabilitation.

Establishment of National, States and Union Territory Infirm and Destitute Rehabilitation Boards.

- 4. (1) The appropriate Government shall establish, as soon as may be, a Board known as "the National Infirm and Destitute Rehabilitation Board" (hereinafter called "National Board") and the State or Union Territory Infirm and Destitute Rehabilitation Boards, (hereinafter referred to as the "State Board" or "Union Territory Board" as the case may be) with such Members, Chairman, Vice Chairman and other persons as the appropriate Government may, by notification in the Official Gazette, prescribe from time to time.
- (2) It shall be the duty of the National Board to enunciate the national policy in consultation with the State Boards and Union Territory Boards in regard to the infirm, destitute and poor and suggest ways and means for their ultimate rehabilitation in life.

Duty to carry out the policy.

- 5. (1) It shall be the duty of the Central Government to carry out the policy formulated by the National Board into effect with the help of the State Governments and Union Territory Administrations through release of funds and materials from time to time after due appropriation made by Parliament in this regard.
- (2) It shall be the duty of every State Government and Union Territory Administration to carry out the policy formulated by National Board and feed back the experience gained during the process of implementation of the policy and to give suggestions for improvement of the policy.

Establishment of shellers.

6. The appropriate Government shall establish and run such number of homes, as may be necessary, in its jurisdiction and each home shall be known as "Awaas".

Removal of persons to shelters.

7. After the establishmen of Awaas under Section 6 all infirm and destitute persons and any person found begging, no being an able bodied adult, or residing on foo path or in public place, as soon as may be, shall be shifted to the Awaas.

8. With effect from such date or dates as the appropriate Government may prescribe, by notification in the Official Gazette, begging or residing on footpaths and in public places not meant for residence shall be prohibited.

Prohibition of begging and residence on footpaths.

9. In every Awaas, every inhabitant shall be provided, free of cost basic facilities such as, —

Facilities to be provided in shelters.

- (a) food, clothing and lodging;
- (b) medical care;
- (c) such education, literal or vocal, as may appear suitable;
- (d) such vocational training that is suitable for him or her to establish in a fruitful pursuit in future;
 - (e) such other necessities or facilities as may be prescribed.
- 10. Every poor person shall be supplied essential commodities at subsidised rates in such quantity and at such rates as may be prescribed in consultation with the National Board.

Supply of essential commodities at subsidised rates to the poor.

11. The appropriate Government shall run rehabilitation centres for proper rehabilitation of infirm, destitutes and poor through proper and adequate training in some trade or vocation and extend all help in cash and kind for this purpose.

Rehabilitation centres.

12. The Central Government may, by no ification in the Official Gazette. make rules for carrying out the purposes of this Act.

Power to make rules.

There are millions of infirm, destitute and poor people in the country who are neglected by society. They live uncared for, stricken with infirmity due to old age, physical deformity, ailment or mental imbalance. They can be found in every age groups and in every part of the country. They live on footpaths and other public places not meant for residence and in slums. Many of them are born on the footpath, spend their whole life on the footpath and die on the footpath, sometimes unnoticed, and many a time unsung. Many of them die due to sunstroke or severe cold and nobody bothers for them.

Ours is a Welfare State. Therefore, the country owes much to itself for humane treatment to these infirm, destitutes and poor. Proper rehabilitation programmes if extended to these unfortunate persons, who are victims of circumstances, will help them to be in the mainstream of the society and they too can be equally respectable and responsible citizens. Vocational training a helping hand, a little sympathy will go a long way to rehabilitate them in life. This object can be achieved only when such unfortunates are housed in protective environments where they can get something to eat and wear as well as medical care. For this there should be separate department at the Central and State levels exclusively to deal with the welfare of such people. There must also be other agency such as an Authority to formulate and implement welfare programmes for such people. This is the need of the hour and such unfortunate people deserve it from society.

Hence this Bill.

S. S. AHLUWALIA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of a separate Department for the welfare of Infirm and destitutes. Clause 4 provides for establishment of Boards. Clause 6 provides for shelters. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crores per annum is likely to be incurred as recurring expenditure.

A non recurring expenditure of about rupees one hundred crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules which will relate to matters of details only. The delegation of legislative power is of normal character.

VI

BILL No. XXVI of 1992

A Bill further to amend the Constitution of India.

Bs it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

Short title and commencement.

- 1. (1) This Act may be called the Constitution (Amendment) Act, 1992.
 - (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of the Seventh Schedule.

- 2. In the Seventh Schedule to the Constitution,-
- (a) In List I—Union List, for entry 56, the following entry shall be substituted namely:—
 - "56. Water, that is to say water supplied for drinking and other purposes of the citizens, irrigation and canals, water storage and water power including regulation, distribution, linkage and development of Inter-State rivers, river valleys and rivers originating from other countries and passing through the country.
- (b) in List II—State List, ontry 17 shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Water is the most precious gift of nature to the living things in this universe. It is one of the essentials for life. Its availability in plenty not only accelerates the pace of economic development but also helps in boosting agricultural production of the country. Nature has gifted our country with abundance of water resources in the form of rivers, lakes, see water etc. It is estimated that the total surface water available in our country is nearly 1440 million acress, of which only 220 million acress, to five the being used. The rest goes waste, whereas nearly one third of the country is drought prone.

Hence we have to give serious thought to utilise the water which goes waste. It has been estimated has the plans so far evolved by State Governments can utilise not more than 540 million acress, of water in the country. This includes the use of a large number of inter-State river schemes benefiting more than one State with emphasis on planning and implementation of such schemes. If we harness major inter-State and international rivers flowing through the country in the larger interest of the country, more water can be utilised, more electricity can be generated and inland navigation can also be improved.

But wa'er mainly being in he State List cannot be harnessed properly due to differences between various States on sharing river waters. The Cauvery water dispute between Karnataka and Tamil Nadu is the latest example in this regard. Therefore, the need of the hour is that water should be managed by the Centre only. It will and illwill among the States. It will also help the centre to formulate plans for the speedy execution of irrigation, power and other river water schemes.

Honce this Bill.

S.S. AHLUWALIA

SUDARSHAN AGARWAL, Secretary-General.